

MINUTES OF THE SPECIAL MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, August 5, 1980. Meeting was held in lieu of statutory date of August 12, 1980.

Place of Meeting: Senate Committee Room 24, Statehouse, Des Moines, Iowa.

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Berl Priebe, Vice Chairman; Senators Edgar Holden and Dale Tieden; Representatives Betty Clark and John Patchett. Also present: Joseph Royce, Committee Staff.

9:10 a.m. Schroeder called the meeting to order with review of the following Conservation Commission rules:

Snowmobile operation, 50.2	ARC 1200	N	7/23/80
Rabbit and squirrel hunting seasons, ch 102	ARC 1204	F	7/23/80
Seasons for taking certain fur-bearing animals, ch 104	ARC 1206	F	7/23/80
Steel shot for hunting of migratory waterfowl, 105.3(3)	ARC 1205	F	7/23/80
Hunting seasons, snipe, rails, woodcock and grouse, ch 109	ARC 1207	F	7/23/80
License depositaries, ch 66	ARC 1201	N	7/23/80
Lost or destroyed license blanks, ch 67	ARC 1202	N	7/23/80

The following Conservation representatives were present:

50.2

Dr. Al Farris, Stan Kuhn, Duane Kennedy and Barry Bishop. Kennedy commented the Commission had established a minimum requirement for snow cover in rule 50.2 to resolve the problem of snowmobiles being run over bare ground, especially in state parks. Tieden thought enforcement would be difficult.

In re 50.2(1), Schroeder suggested further clarification of the last sentence with the addition of "where the snowmobile is operated" or "at the time of operation." Kennedy agreed to consider rewrite of the rule before filing

ch 102

Farris discussed amendments to chapter 102 explaining that the seasons are essentially the same. In answer to Tieden, he said much of the squirrel hunting takes place before sunrise. Tieden preferred that squirrel season open in August rather than September.

102.3

In response to Schroeder, Farris explained the format used in setting out changes in the rules.

ch 104

Farris advised the Committee that pheasant season begins the first Saturday in November and fur-bearing animals season was changed to November 8 to avoid conflict of "same day" opening. According to Tieden, coon hunters in his area were unhappy with the change. Farris agreed there was a large dichotomy among coon hunters.

105.3

Rule 105.3 re steel shot was the result of HF700 and is identical to the notice of intended action in June.

CONSERVATION
COMMISSION
Cont'd

In answer to Tieden, there is very little waterfowl hunting on the Missouri River; basically, hunting is in the backwaters. Farris continued that the US Fish and Wildlife Service, without notifying the Conservation Commission or asking for comments, had included two areas of the Mark Twain National Wildlife Refuge in the southern part of the Mississippi River below the Quad Cities--Big Timber and Turkey Island, near Louisa County--in steel shot requirements. Iowa cannot incorporate the rule into state regulations and Farris indicated Iowa would leave enforcement to the federal government.

Responding to Tieden, Farris said Iowa has no reciprocal hunting agreements with Wisconsin or any other state.

ch 109

Farris commented there was no change in chapter 109. He explained to Priebe the reason for 109.4--zoning in the NE part of Iowa--was that grouse need dense brushy habitat, which is nonexistent in most areas and stocking has been unsuccessful.

Lake McBride Patchett questioned department officials concerning resurfacing of roads in the Lake McBride campgrounds. He was dismayed to learn the grounds were closed in August during the last month of the vacation season. A week before the closing, a notice appeared in the Cedar Rapids and Iowa City newspapers that the park would be closed.

Kennedy said, routinely, roads are resurfaced at that time of year, and advised that John Stokes would be the person to contact re this matter [Institutional Road Fund, DOT]

Holden inquired re the roadside count for pheasant and Farris said it was made the first 15 days of August. In response to suggestion to curtail the pheasant season, Farris commented the hunting season time has little to do with pheasant population which is controlled by the large numbers of hens and the fact that the pheasant cock is polygamous.

Priebe favored trial of a short pheasant season.

ch 66

According to Kuhn, there are 325 outlets authorized by the conservation commission to sell licenses. Previously, there were no rules governing this area. Bonding had been done by a Nebraska firm.

Priebe expressed concern that depositaries were treated differently from county recorders and noted that the Code placed them at a disadvantage. Schroeder thought it would be convenient for county recorders to be allowed to distribute the blanks without paying for them. Priebe contended that was the way it used to be and a change had been made. Kuhn did not believe that to be so.

CONSERVATION Cont'd There was further discussion and Priebe wanted the matter investigated and asked the department to contact the Algona County Recorder. Kuhn was amenable.

ch 67

Discussion of chapter 67, lost or destroyed license blanks. Schroeder took the position that 67.2 was unreasonable concerning bonding requirements. In answer to Schroeder, Kuhn said they had received a few written comments on the proposed rules.

Schroeder requested Royce to contact Don Cleveland, Association of Counties, asking them to address the issue before the rule is adopted.

Schroeder thanked Conservation Commission officials for being present and discussion moved to Energy Policy Council.

ENERGY
POLICY
COUNCIL

Douglas True, Deputy Director, was present for review of standby emergency energy conservation measures, four of which would be mandatory, 12.7-12.10, IAB 7/23/80.

Tieden was concerned about enforcement and who would be subject to citation. True thought "scheduled violations" set out in the Code would be applicable.

12.7(6)

Patchett asked for explanation of intent of "action mandatory" in 12.7(6). True said, in an emergency situation, the council would recommend that the governor, by executive order, make the rule mandatory. Patchett contended there was no authority to "add personnel." True responded the governor has authority on a temporary basis. Patchett noted the Code gave the authority to transfer, but not add, personnel. Clark concurred. After further discussion, True agreed use of "add" was misleading and he was amenable to removal of it.

Patchett further contended, under 12.7(6) as drafted, only DOT or DPS would be in position to violate the directive.

Clark questioned a mandatory rule without an appropriation.

12.7(15)

Tieden doubted 12.7(15) -- voluntary reduction of distillate fuel by schools--could be regulated. True responded that, again, EPC would make recommendation to the governor to outline specifics in his executive order. Schroeder could foresee problems for school systems which do not use buses for outside activities. True said DPI would be working with school systems.

Holden maintained that once the Governor was involved, the rules would no longer be voluntary and they could become law merely by executive order.

- ENERGY
POLICY
COUNCIL
Cont'd
- In re 12.7(2), Holden requested addition of a comma after the word "road" in the last sentence. He questioned how the provision would save fuel.
- True commented problems of supply and demand occur in the distribution system. The rule would address distribution.
- 12.7(17) Schroeder and Priebe were of the opinion reduction of the crop tillage speed was unrealistic. Schroeder thought EPC should consider eliminating the rule and Holden favored equal application to all factions but "pray we never need these rules."
- In answer to Patchett, True did not think lack of rules would bar EPC from making recommendation to the Governor.
- 12.7(15) Clark thought language in 12.8(1)--"published to achieve higher levels of compliance"--should be included in 12.7(15) as well.
- In response to Tieden, True said the EPC would meet in September to consider adoption or rejection of the rules. If they are adopted, the Council has a responsibility to keep them updated.
- 12.7(19) Priebe took exception to 12.7(19)(20) and Holden thought 12.8(7)
(20) unnecessary.
- Holden declared the rules should be "kept in a drawer" until an emergency arises, then, action could be taken. Most members concurred. Tieden viewed some of the rules as "totally impractical and almost embarrassing."
- Patchett preferred that EPC remove objectionable areas and file the rules. He commended the agency for submitting the rules instead of operating without any.
- Priebe and Schroeder thought EPC should move cautiously in this area.
- No further Committee discussion.
- AGING
COM-
MISSION
- Ron Beane, Operations Manager, and Mary Ann Olson were present for review of the amendments to 8.1(8)-8.1(11), 8.5(4), (5), 8.7 respectively--elderly care, published as Notice and filed emergency 7/23/80, ARC 1192 and ARC 1191.
- 8.1(10) Schroeder asked about effect of new definition of "significant local match"--8.1(10). Beane said the rule implements HF 2580, 68GA, ch 1001 wherein state funds cannot be used as "local match." It is easier to tie into federal grants to match the state dollars than it is to obtain money from the county supervisors, according to Beane.

Tieden was curious to know if, in Beane's opinion, an increase in local property taxes would be required. Beane explained

AGING COMMISSION that previously, a \$2 match was required, whether federal
Cont'd or local, for every \$1 of state funds.

Beane continued, "In a sense, locally generated funds are worth more than federal funds when it comes to matching state funds which reflect the real world."

Priebe opined it would not necessarily reduce local taxes, but could increase them. The option is left to the community.

Schroeder viewed the measure as giving the smaller communities a better opportunity for funds.

No further discussion by the ARRC on the Aging Commission.

ENVIRONMENTAL QUALITY

The following rules were before the Committee and Odell McGhee, Hearing Officer, David Bach, Legal Counsel, and Ron Kolpa of DEQ were present:

ENVIRONMENTAL QUALITY[400]

Odor complaints, 14.3(3)"b", filed emergency ARC 1227 *FE*..... 7/23/80
Hazardous waste, 45.7-45.9 ARC 1225 *NY*..... 7/23/80

McGhee explained the amendments before the Committee were to proposed rules on the hazardous waste program. He introduced David Bach and the ARRC requested Bach to give a synopsis of the substantive requirements being adopted.

Bach commented that this was the third notice published on these rules as a result of EPA starting the process and DEQ following in a "piecemeal fashion." The first regulations proposed in February by EPA were the subject of DEQ's first notice and they were later revised May 19 to include all the requirements of "phase I." DEQ's second notice was intended to adopt, by reference, the remainder of phase I regulations. At the same time EPA promulgated the phase I regs, they established substantive requirements for state programs to meet. DEQ was unaware of these at the time they drafted notice for phase I, but after studying the latest requirements, DEQ decided certain portions were needed for "phase I interim authorization" thus, the present (third) notice

Priebe's constituent, Ray Morgan of Algona, was experiencing problems with the volume of paperwork. Priebe thought DEQ, in a telephone conversation, might have given him misinformation. In order to clear up any misunderstanding, he asked DEQ to contact Morgan.

Bach indicated the manifest system is required by federal law. Three forms are involved and it is one of the areas that DEQ objected to the most. Bach continued that given the federal requirements and state statute which states "shall be consistent with and no more stringent than the federal rules..." DEQ has little choice if Iowa wants the program.

ENVIRONMENTAL QUALITY Cont'd General discussion of "warrantless" search with Bach commenting that, under state law, there is an option to refuse to admit DEQ officials. DEQ must then obtain a warrant through district court.

In response to Clark, Bach explained SIC and UIC (underground inspection control) are defined in provisions adopted by reference. Clark thought acronyms should be defined in these rules.

45.7 Clark commended the department for the addition of "Therefore, anyone who has filed a satisfactory notification with EPA will be deemed to have complied with the notification requirement of Iowa law." in 45.7.

No further discussion re DEQ.

Recess Schroeder recessed the Committee at 10:25 a.m. to be reconvened at 10:40 a.m.

Reconvened Chairman Schroeder reconvened the Committee with officials of the Commerce Commission present to discuss decorative outdoor gas lights, 19.3(1)e, IAB 7/23/80.

COMMERCE COMMISSION Bill Whitten discussed the change to prohibit use of natural gas on outdoor lighting was being recommended as a result of federal delegation of full responsibility and authority with regard to natural gas outdoor lighting.

Schroeder, Holden and Priebe considered the measure to be unfair. Priebe thought if natural gas lights were to be eliminated, then propane should be also. Whitten advised that the Commerce Commission has no control over propane suppliers and that definitions come directly from federal sources.

Tieden asked if there were a shortage of natural gas and Whitten answered that, when the federal law was passed in 1978, there was a shortage. However, an amendment is being offered which will remove the restriction from residential and municipal use.

Upon request by Schroeder, Whitten agreed to supply dates certain where needed.

Livestock Health Advisory Council Priebe requested appearance of a representative from the Livestock Health Advisory Council and the rules were scheduled for 1:40 p.m.

COMPTROLLER'S OFFICE Jim Dysart, Administrative Assistant, Comptroller's office, reviewed amendments to chapter 4, deferred compensation, IAB 7/9/80, ARC 1173.

COMPTROLLER'S OFFICE Dysart advised the Committee that the amendments were to permit the legislators to participate in the program and to allow a participant to transfer insurance companies once between open enrollment times (normally in November).

In answer to Tieden, Dysart indicated 900 employees participate in the deferred compensation program, excluding Regents. General discussion of the program, with Dysart explaining that 80 companies (insurance) service the program.

Tieden referred to a letter from an insurance company contending Iowa's program is inefficient. Dysart said the program, in his opinion, is efficient but does not appeal to most state employees. Legislation would be needed before any changes could be made.

The point was made that national average is 15% participation in this type of program, but Iowa has only approximately 4% participation. Dysart explained that the federal government requires Iowa to be owner and beneficiary of the policy which does not appeal to most employees.

Holden wondered why Iowa offered the program since better plans were available. Dysart responded that, at the time, no limitations were placed on the amount that an employee can defer.

Dysart advised Tieden that the Ad Hoc Committee had not been established. Dysart admitted that Aetna Insurance was proposing that individuals be allowed to enter the program at any time. The Comptroller's office has no qualms about opening up any time. However, Iowa has used the open enrollment period because it has worked well for health insurance.

No formal action taken by the Committee.

Committee
Business
Linn County
Supervisors

Patchett asked for special review of the Department of Social Services' actions relating to reimbursement for juvenile detention and shelter care. Linn County Supervisors allege the Department has failed to promulgate any rules on reimbursement to counties for juvenile detention shelter care, and has made arbitrary decisions during the past 18 months regarding reimbursement. According to Patchett, Joe Rinas, Chairman, Linn County Board of Supervisors, and Craig Kelson, Assistant County Attorney, are to the point of considering suing the Department.

Royce indicated the only way to force an agency to do anything is by lawsuit.

The Committee agreed to place the matter on the September agenda.

Lunch

Recess for lunch at 11:20 a.m.

Reconvened

Schroeder reconvened the meeting at 1:10 p.m.

SUBSTANCE
ABUSE

Ron Walters, and Randy Ratliff were present for review of the following rules:

SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]

Licensure, treatment programs, 3.2. 3.7(1)"a", 3.7(2)"c", 3.8(1)"a", 3.22(2)"b", 3.22(3), 3.22(5)"b", "h", "i", "k",
3.22(8), 3.22(11)"a", "b", "d", "g", 3.22(12)"c", "d", "f", 3.22(14)"b", 3.22(15)"b", 3.22(19), 3.23(4),
3.24(7)-3.24(13) ARC 1172 ... *N*.....7/9/80

Barry requested direction as to disposition of obsolete rules published in the IAC under Drug Abuse Authority[330] and Alcoholism Commission[40]. Ratliff commented that since the Iowa Department of Substance Abuse assumed all of the functions of these former agencies, Oakley's office had ruled they could rescind both sets of rules.

In answer to Schroeder, Ratliff said their proposal would clarify certain areas and add new rules to implement §125.3, The Code, re rights of patients and medication control. They have received only one comment on the rules, which was basically supportive.

3.24

Responding to Clark, Ratliff commented the qualified dietician needs basic culinary skills but no specific academic skills-- 3.24(7).

Clark requested background on 3.22(19)--self administration of medicine and Ratliff explained the subrule had been written with the aid of the Pharmacy Board.

In an unrelated matter, Tieden discussed the ability to analyze the effectiveness of state programs. He inquired if the Department maintained records with a cross reference to disseminate information on any individual re follow up.

Ratliff said there is mandatory follow up of those discharged. Priebe commented the individual could be admitted to another center. Ratliff added use of the client's social security number enables client location after release.

Discussion of confidentiality.

3.22(3)

Holden, re 3.22(3), line 5, requested the comma after "and" be retained.

No further questions by the Committee.

TRANSPORTA--
TION

Present for review of DOT rules were Robb Forrest, Director, Office of Driver's License, Candace Bakke, Regulation, DOT, and Jim Cable, Office of Advanced Planning, representing Functional Classification Review Board:

TRANSPORTATION, DEPARTMENT OF[820]

Driver licenses, [07,C] 13.2(3)"b", 13.7(8), 13.13(12), 13.15(9), 13.17 ARC 1168 *N*.....7/9/80
Passenger services exempt by permit, [07,F] ch 8 ARC 1211 *N*.....7/23/80
Functional classification of highways, [08,C] 3.15(6)"f" ARC 1169 *F*.....7/9/80

TRANSPORTATION Forrest stated that amendment to 13.7(8) would shorten from
 Cont'd one year to six months the epilepsy restriction on obtaining
 13.7(8) a driver's license. Priebe called for supportive statistics
 re the change, but Forrest admitted these would be difficult
 to provide.

Royce discussed the possibility of providing a penalty for epileptics who fail to report that fact.

Discussion of the special re-examinations for persons convicted of not wearing their eyeglasses.

Schroeder cited unwarranted instances of harrassment and discrimination, in his area, in administering driving tests. He favored provision in the rules that, if a driving test is to be given, it must be done so immediately unless the individual requests a delay.

Forrest agreed to review the rules in question keeping in mind Committee concerns.

[07,C]

13.15(9)e

Holden pointed out, in 13.15(9)e, reference was made to a Code section which was nonexistent. Barry commented that the legislature directed that new language in SF 278,68GA,ch 1103, nonresident violator's compact, be numbered 321.513.

[07,F]

ch 8

Bakke discussed amendments to chapter 8, and explained that vans providing passenger service for elderly, etc. as provided in 325.6(3), The Code, were exempted from public convenience and necessity requirements.

In answer to Schroeder, Bakke said the insurance is required by the Act. Tieden questioned the cost of the permit and Bakke explained the Act excused the fees and use of "fee receipts" was a misnomer.

Holden called attention to what he considered broad language in [07,F]8.7(325). Bakke emphasized rules for carrier safety are written in this formate. She was amenable to including date certain at Committee request.

In the matter of use of reflector triangles instead of flares, Schroeder quipped "What would happen if someone uses three reflectors instead of the triangle?" He favored allowing use of flares and asked Bakke to pursue.

Priebe in the chair.

In re [08,C]3.15(6)f, according to Cable, the purpose of the proposed amendment would basically ensure actions taken by the state appeal board were of an appellate nature.

TRANSPORTA- Royce inquired as to what would occur in the odd circumstance
TION where evidence becomes available which was not previously avail-
Cont'd able. Cable answered they would have to return to the appeal
board.

No formal action taken.

VETERINARY Dr. Dale Brinkmeyer, Assistant State Veterinarian, explained rules
MEDICAL re fees for exam for licensure, being 2.2 and 4.3, IAB 7/23/80,
EXAMINERS ARC 1193. Cost of the national board examination, now \$75, will
increase to \$90. The fee is approved by the Veterinary Medical
Examiners Board.

In a matter not officially before the Committee, Priebe questioned
Brinkmeyer as to the status of the pseudorabies crisis. There
was brief discussion with Schroeder indicating he was opposed to
a mandatory vaccination program. Brinkmeyer reported there would
be no mandatory vaccination.

Livestock Discussion moved to Livestock Health Advisory Council expenditure
Advisory of funds for disease research--1.1, IAB 7/23/80, ARC 1177. Priebe
Council said, in his area, veterinarians take the position TGE (trans-
missible gastroenteritis) vaccine is effective and the \$45,000
should be directed toward other diseases, possibly pink-eye in
cattle.

Brinkmeyer said he would be glad to report Priebe's position to
the Council even though he did not concur. He shared the position
of the Council that more exploratory work was needed to eradicate
TGE.

Brinkmeyer urged Priebe to visit with someone in the field of TGE
research. He advised the Committee that \$30,000 had been approved
for fiscal year 1980-81 for bovine pinkeye. Brinkmeyer presented
fund allocations and copies will be made for distribution to the
Committee.

SOCIAL The following rules were reviewed:

SERVICES

SOCIAL SERVICES DEPARTMENT[770]

ADC, unearned income, 41.7(1)"c"	ARC 1217	FE	7/23/80
Medical assistance, fluoride treatment, 78.4(1)"b"(12)	ARC 1216	FE	7/23/80
Intermediate care facilities, 81.6(16)"c"	ARC 1215	FE	7/23/80
Domestic abuse, ch 160	ARC 1214	FE	7/23/80
ADC, application, 40.4, 40.6, filed emergency	ARC 1182	FE	7/23/80
ADC, eligibility for children, 41.1(1), 41.1(4), 41.4(1)"a"	filed emergency	ARC 1183	FE
ADC, eligibility factors, 41.2(7)"a", 41.7(2)"e"(1)	ARC 1220	N	7/23/80
Supplementary assistance, eligibility, 51.4(1), 51.7, filed emergency	ARC 1180	FE	7/23/80
Supplementary assistance, payment, 52.1(1)-52.1(3), filed emergency	ARC 1184	FE	7/23/80
Relief for needy Indians, 64.1, 64.2(9), filed emergency	ARC 1185	FE	7/23/80
Food stamp program, 65.3, 65.13, filed emergency	ARC 1181	FE	7/23/80
Medical assistance, eligibility, 75.1(4), 75.1(10), filed emergency	ARC 1186	FE	7/23/80
Medical assistance, cost containment measures, 78.1(2)"a"(5), 78.2(2), 78.4(1)"g"(1), 78.6(13), 78.6(16), 78.7(4), filed emergency	ARC 1187	FE	7/23/80
Medical assistance, cost containment for hearing aids, 78.14(5)	ARC 1219, also filed emergency	ARC 1218	FE
Medical assistance, copayment by recipient, 79.1(4), filed emergency	ARC 1188	FE	7/23/80
County and multicounty juvenile detention homes, 105.1(7), 105.5(1)	ARC 1221	N	7/23/80
Title XX, use of Mini-XX funds, 131.5	ARC 1222, also filed emergency	ARC 1189	FE
Foster group care, 137.9, filed emergency	ARC 1190	FE	7/23/80
Chore service, 149.1(5)	ARC 1223	N	7/23/80
Home management services, ch 158	ARC 1224	N	7/23/80

SOCIAL Present for discussion were Judy Welp, Rules and Manual Specialist,
 SERVICES Bobe Schoene, Adult Services, Margaret Corkery, Title XX unit,
 Cont'd Kathleen Kellen, Bette Murray and Charles Ballinger, Title XIX unit;
 Marie Theisen, ADC, Elizabeth M. Hagerty, Lorena Griffiths, ADC;
 Vivian Thompson, State Supplemental, Miriam D. Turnbull, all from
 the Department of Social Services; also present were Marcia Hellum,
 representing Iowa Hearing Aid Dealers and Bob Bray, Legal Services
 Corporation.

41.7(1)e Clark and Priebe discussed a case of abuse of funds on ADC income-
 in-kind and Hagerty agreed to investigate if the name was provided.

81.6(16)c Amendment to 81.6(16)c was in response to request by Iowa Health
 Care Association. Even though they requested larger amounts, the
 Association was willing to accept the \$1.75 maximum.

78.4(1)b Oakley questioned medical rationale for the change in 78.4. Welp,
 (12) in essence, indicated prevention was less expensive than a cure.
 Oakley pointed out that cities are not required to fluoridate their
 water. He preferred a fiscal review in view of mandated cuts in
 spending. Priebe asked Welp to consider preparation of a fiscal
 note.

Welp emphasized that treatment would be up to the dentist--and
 would not necessarily be administered every 6 months.

No further discussion.

ch 160 Discussion of chapter 160 which addressed law enforcement agencies'
 role with respect to quarterly reports on domestic abuse information.

Oakley viewed the rules as being broad and he reiterated his earlier
 concern for the loss of protected status of certain records. He
 asked if it were the position of the legal department that the court
 could obtain information on domestic abuse by merely writing a letter
 of request.

Welp indicated if the court needed certain information from the
 registry for a particular case, the Department would follow the
 subpoena, court order or written directive. The Department did
 not want to place further limitations.

Oakley was hopeful the legislators were aware of complaints about
 abuse of the confidential registry information.

Clark, on the other side of the issue, was concerned for the person
 who might be hurt by "protecting the information."

40.4, 40.6 -- Implements the change in the law that made home visits to
 applicants optional in ADC cases. Also, provides effective date
 of eligibility to be no earlier than seven days after application.

SOCIAL
SERVICES
Cont'd

In answer to Clark, Welp indicated that she had forwarded the Committee recommendation for more flexible hours for visitation but it was not well received. As a general practice, workers would not be available.

Hagerty, in response to Priebe and Clark, contended every complaint of ADC abuse is investigated. She reminded them of a court decision discouraging "midnight raiders" in ADC matters. This is not considered to be good social work practice.

Schroeder assumed the chair.

Patchett inquired if social security records were used for crosscheck and Hagerty responded in the affirmative if there is valid reason to believe there is abuse.

Priebe made the point that if one out ^{of} one hundred violations surfaced, a great saving could be realized. He suggested utilizing flex-time workers.

Holden found it disconcerting that in communities where abuse of funds is common knowledge, it is so difficult to prove.

Priebe recalled a meeting where he had visited with employees who contended the "department in Des Moines said to keep our nose out of it." Clark noted she had also attended the meeting.

Hagerty spoke in support of the employees and stressed the process of checking ADC abuse is very time consuming.

Discussion of requirement to be met before a case is referred to the prosecuting attorney.

Priebe maintained there should be a law to shift the burden of proof to the two recipients--by requiring one party to provide receipts proving he or she lives in another domicile. Schroeder suggested, in the application procedure, something could be added to the fact that the address must be verified.

No formal action.

41.1,
41.4

Rule 41.1(1) eliminates ADC eligibility for persons in the age range of 18 to 21 as per 68GA, HF2580. The definition of school attendance was removed from the rule and inserted under WIN requirement.

Patchett was curious as to justification for emergency adoption on 7-1-80 of most of the rules before the Committee.

Welp said the legislature had, in her opinion, determined there was a valid reason because of savings involved.

Oakley supported the department's position in following the legislative mandate and indicated he had helped draft the language in HF2580.

SOCIAL
SERVICES
Cont'd

Patchett questioned Oakley as to reason for failure to involve the Medical Assistance Advisory Council in the matter. Oakley replied that was a matter that will have to be decided--it is not without some legal questions.

Patchett commented that obviously the courts will have to resolve the matter. He noted the Act used "shall adopt pursuant to 'X' and may adopt pursuant to 'Y'." He interpreted this to require compliance with both. [17A.4 and 17A.5].

Schroeder agreed it would be a matter for the courts.

In answer to Priebe, Welp said there had not been much static about removal of the 18-21 years olds from the ADC program.

Bray commented that as a new member of the Medical Assistance Advisory Committee, he had knowledge that the Department bypassed the Council and worked only with the budget committee.

According to Welp, only hearing aid rules were completed under the normal rulemaking procedure.

Committee concurred that Welp should request the Council to consider the advantage of regular rulemaking process as an alternative.

41.2(7), No Committee questions were posed re 41.2(7) and 41.7.

41.7(2)e
(1)

78.14(5) Welp commented the main dispute re 78.14(5)[filed under emergency as well as notice] had been the dispensing fee which was increased from \$100 to \$165.

Kellen responded to a letter from Hellum. She explained, after a telephone conference with industry representatives, DSS agreed to change the reimbursement fee to \$165 in addition to \$12.50 service fee after 6 months.

Department officials reported a brief study was conducted concerning the reimbursement procedure followed during given periods in 1978 and 1979.

Clark thought the rule to be innocuous in that the dispensing fee was not included. Patchett concurred.

There was Committee concern for the limit of one service call in a 12-month period. Schroeder and Clark thought there was a strong possibility certain individuals would require more.

Discussion of including a standard of "reasonable and customary" in the rules. General agreement the rule would have little impact without an amount.

SOCIAL
SERVICES
Cont'd

Clark interjected that the solution might be to set the fee at \$165 with the service up to \$12.50 each instance up to a maximum of \$200.

Hearing
Aid Dealers

Oakley thought the paper work would be prohibitive. He favored averaging number of expected service calls and allowing a set amount of \$175.

Hellum argued that 17A is explicit in that an amount must be in the rules. In re an adequate dispensing fee, she admitted the client, under medical assistance, may require a great deal of service and since many are unable to travel, this would increase the expense. She opined a simple solution might be to include transportation payment for the year. She added hearing aid dealers are concerned that the costs be very fair and not padded in any way. Putting the amount on a flat fee basis would prohibit many hearing aid dealers from participating, with the unfortunate result that medical assistance recipients would be unable to obtain service.

Hellum's basic question, "Why are we considering up to a 30% reduction in reimbursement for hearing aids when the increase in cost of the hearing aid program hasn't kept up with inflationary increases?"

Holden offered a suggestion--charge no more for the service call than the office call would be, plus mileage.

In answer to Oakley, Hellum said there is no minimum hearing loss required before an aid may be obtained. However, her clients support establishing 40% loss as a minimum.

Schroeder called for motions. None were offered.

Kellen agreed to co-operate with hearing aid dealers to set hearing loss standards.

Tieden questioned the delay by DSS in setting standards. Oakley took the position that the Department should set out the amount of usage, show the "impact of this or that choice" and then make a selection.

Kellen said minimal standards would create a problem of having to review every case.

It was noted a hearing was scheduled for the rule under notice.

No further discussion.

105.1(7)
105.5(1)

Amendments to chapter 105 would relax the staffing standards for juvenile detention homes. Welp indicated that Mrs. Turnbull was attempting to reach a compromise between opposing factions on this issue.

SOCIAL
SERVICES

Cont'd

105.1(7)

105.5(1)

Oakley was doubtful there could be a "middle ground" and he suggested that a public hearing be held.

With respect to the on-call system in 105.5(1), Clark recommended clarification. She contended in any of the situations mentioned, assistance would be needed.

Patchett asked how they justified the difference--the searches, physical restraint, etc., and if they considered the national standards promulgated by the National Correctional Association.

Turnbull indicated national standards require two people, one of each sex, if a facility is coed.

Patchett could foresee possible risk of a suit if only one person were present during a "search."

Priebe asked if the rule would affect county jails. Turnbull replied juveniles cannot be confined in jails unless there are separate facilities. Priebe wasn't sure the rule had flexibility.

Turnbull reiterated that there must be separate standards for juveniles.

Clark thought more emphasis should be placed on the service contributions which could be provided by volunteers.

Title XX

Welp said the rules dealing with the mini-Title XX funds--131.5--were emergency in order to be effective July 1. The rules specify the formula used in the allocation and were also published under Notice.

131.5

Clark requested substituting "the" for "said" before "client" in 131.5

No Committee questions on 51.4, 51.7, 52.1(1-3), 75.1 and 149.1(5).

Brief discussion of 64.1 and 64.2 which transferred the Indian Relief program to the tribal council of the settlement in Tama County.

amendments
to Ch 78

Clark noted that 78.1(2)a(5) would exclude payment for prescription laxative drugs, which in her opinion was an important item. Schroeder thought the \$25.00 allowance to each recipient could be applied to that expense.

78.2(2)

Clark wanted to know if the professional fee of \$3.00 was for each prescription and Welp replied in the affirmative.

79.1(4)

In answer to Clark, Welp said 79.1(4) does apply to ADC recipients. Clark wanted to know if there was massive refusal to cooperate. Welp knew of none.

137.9

No questions were raised re 137.9

WATCHMAKING
EXAMINERS
1.2(4)
Delay

No representative had been called to represent Watchmaking Examiners but Priebe voiced dissatisfaction with 1.2(4), quorum requirements. Patchett suggested placing a delay. Priebe moved to delay 1.2(4) for 70 days. Motion carried.

It was noted that it was probably an oversight on the part of the Board since they had agreed to strike the word "present" when the rules were reviewed under Notice.

Oakley suggested the legislature change the law on the quorum requirement.

It was agreed that an emergency amendment would be in order to allow the change to become effective at the same time as the full set of rules.

September
Meeting

It was pointed out that the chairman, vice chairman, Senator Holden, Royce and Oakley would be appearing on a panel discussion of the Iowa Taxpayers Association during the morning of September 9--the statutory meeting date of the ARRCCommittee. Discussion followed and it was agreed to hold the meeting on Tuesday and Wednesday beginning at 1:00 p.m. on Tuesday, September 9.

Minutes

Schroeder requested delaying approval of the July minutes until the next meeting. So agreed.

Agreement to include in the published agendum, notice of the special review concerning reimbursement to counties for juvenile detention.

No agency representatives were called for the following:

CONSERVATION COMMISSION[290]

Vessel registration, 28.1 ARC 1203 *F*..... 7/23/80
Passenger capacity on vessels, ch 29 ARC 1199 .. *N*..... 7/23/80

BEEF INDUSTRY COUNCIL[145]

Quorum, 1.5, filed emergency ARC 1166 .. *F.F*..... 7/9/80

ENGINEERING EXAMINERS[390]

Experience requirements for licensing 1.2(2) ARC 1197 .. *F*..... 7/23/80

GENERAL SERVICES[450]

Centralized purchasing, 1.1, 1.2, 1.3(1), (4), (6), (7), (9), (11)-(14), (17), (19), 1.4(3), 1.6(6), 17(2), (4), 2.1-2.4, 2.5(6), 2.15, 2.16, 2.20, 2.21 ARC 1194 .. *F*..... 7/23/80

INSURANCE DEPARTMENT[510]

Life insurance policies, backdating, 30.5, 30.6 ARC 1226 .. *F*..... 7/23/80

LABOR, BUREAU OF[530]

Reporting of hospitalization accidents, 4.8 ARC 1174 .. *N*..... 7/9/80

LIVESTOCK HEALTH ADVISORY COUNCIL[565]

Recommendation, expenditure of funds, 1.1 ARC 1177 .. *F*..... 7/23/80

MERIT EMPLOYMENT DEPARTMENT[570]

Certification, 7.6, 7.11, 7.12 ARC 1198 .. *N*..... 7/23/80

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600]

Licensure, reciprocity, 2.7(2)"d"(3), filed emergency ARC 1163 .. *F.F*..... 7/9/80

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION[610]

Hearings and rulemaking, 1.110, 1.107 ARC 1164 .. *N*..... 7/9/80

No Agency
Representative
Called
Cont'd

PLANNING AND PROGRAMMING[630]

Federal funds clearinghouse, ch 11 ARC 1170 *N*.....7/9/80
Home energy assistance program ARC 1176 *N*.....7/9/80

PUBLIC INSTRUCTION DEPARTMENT[670]

Proper expenditure of improvement of instruction funds, ch 21, ARC 0465 terminated, ARC 1179 *N.T.* 7/23/80.

SECRETARY OF STATE[750]

Forms, ch 4, filed emergency ARC 1178 *FE*.....7/23/80

SOIL CONSERVATION DEPARTMENT[780]

Iowa till program, 7.21-7.29 ARC 0537 terminated, ARC 1212 *NT*.....7/23/80
Wind erosion control, 7.31-7.40 ARC 0539 terminated, ARC 1213 *NT*.....7/23/80


WATCHMAKING EXAMINERS[850]

Organization, ch 1; Examinations, ch 2; Certificates of registration, ch 3; Continuing education, ch 4;
Discipline, ch 5; Ex parte communications, ch 6 ARC 1165 *F*.....7/9/80

There was discussion as to possible change in dates for the October meeting with Schroeder suggesting October 7 and 8 as a tentative time.

Committee adjourned at 4:10 p.m. to reconvene Tuesday, September 9, at 1:00 p.m.

Respectfully submitted,


Phyllis Barry, Secretary
Assistance of Vivian Haag

APPROVED


CHAIRMAN